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In re Application of LOINTIER et al	:	
U.S. Application No.: 10/500,228	:	
PCT Application No.: PCT/FR02/04589	:	
Int. Filing Date: 30 December 2002	:	
Priority Date Claimed: 28 December 2001	:	DECISION
Attorney Docket No.: 80350-1230	:	
For: MULTIPLE-POUCH INTRAGASTRIC	:	
BALLOON, SURGICAL DEVICE FOR	:	
EXPANDING SAID BALLOON AND	:	
METHOD FOR MAKING SAME	:	

This is in response to applicant's "Response to Renewed Petition Under 37 C.F.R. §1.47(a) and Petition to Delete Inventor Under 37 C.F.R. §1.497(d)" filed 25 March 2006.

BACKGROUND

On 30 December 2002, applicant filed international application PCT/FR02/04589, which claimed priority of an earlier France application filed 28 December 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 10 July 2003. The thirty-month period for paying the basic national fee in the United States expired on 28 June 2004.

On 25 June 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 16 November 2004, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 11 May 2005, applicant filed a petition under 37 CFR 1.47(a).

On 03 June 2005, this Office mailed a decision dismissing the 11 May 2005 petition.

On 23 December 2005, applicant filed a renewed petition under 37 CFR 1.47(a).

On 06 March 2006, this Office mailed a decision dismissing the 23 December 2005 renewed petition.

On 25 March 2006, applicant filed the present petition under 37 CFR 1.497(d).

DISCUSSION

37 CFR 1.497(d) (effective 07 November 2000) states,

If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in 37 CFR 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (see 37 CFR 3.73(b) of this chapter).

With regard to item (1) above, the requisite statement has been provided.

With regard to item (2) above, the requisite processing fee will be charged to Deposit Account No. 20-0778 as authorized in the petition.

With regard to item (3) above, proper written consent of the purported assignee has not been provided. In particular, the statement of consent does not identify the person signing. Furthermore, the statement of consent lacks one of: (1) apparent authority of the executor, by virtue of title (e.g. President, Vice President, Secretary, etc.), to sign on behalf of the assignee or (2) a statement that the person signing is authorized to act on behalf of the assignee.

It is further noted that the declaration filed 11 May 2005 and the assignment agreement filed with the present petition are not acceptable because each improperly lists Alain Jean Charles Verdier as an inventor. A newly executed declaration and assignment must be submitted.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.497(d) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are

available under 37 CFR 1.136(a). Failure to timely file a proper response will result in abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.497(d)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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